

**ORIGINAL**

**WILLIAM JOSEPH WAGNER**

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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WILLIAM J. WAGNER,

Plaintiff,

- vs - Civil Action No.  
15-CV-633

CHIARI & ILECKI, LLP,

Defendant.  
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Examination before trial of WILLIAM  
JOSEPH WAGNER, Plaintiff, taken pursuant to the  
Federal Rules of Civil Procedure, in the  
LAW OFFICES OF KENNETH HILLER, 6000 North Bailey  
Avenue, Suite 1A, Amherst, New York, on October 3,  
2016, commencing at 10:16 a.m., before MARY  
SCHULZE, RPR, RMR, Notary Public.

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1 APPEARANCES: LAW OFFICES OF KENNETH HILLER,  
2 By SETH J. ANDREWS, ESQ.,  
3 6000 North Bailey Avenue,  
4 Suite 1A,  
5 Amherst, New York 14226,  
6 (716) 564-3288,  
7 sandrews@kennethhiller.com,  
8 Appearing for the Plaintiff.

9  
10 CONNORS LLP,  
11 By PAUL A. WOODARD, ESQ.,  
12 1000 Liberty Building,  
13 Buffalo, New York 14202-1687,  
14 (716) 852-5533,  
15 paw@connorsllp.com,  
16 Appearing for the Defendant.

10:14:17 10 THE REPORTER: Mr. Woodard, are you  
10:16:48 11 providing Mr. Andrews with a copy of the  
10:16:49 12 transcript?

10:16:50 13 MR. WOODARD: Yes, please.

10:16:50 14

10:17:23 15 W I L L I A M J O S E P H W A G N E R,  
10:17:24 16 5419 Roberts Road, Hamburg, New York 14075, after  
10:17:25 17 being duly called and sworn, testified as follows:

10:17:25 18

10:17:25 19 EXAMINATION BY MR. WOODARD:

10:17:25 20

10:17:30 21 Q. Good morning, Mr. Wagner.

10:17:31 22 A. Good morning.

10:17:32 23 Q. We met a few minutes ago. As I

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10:20:05 1 there's some interrogatories, and there's a --  
10:20:11 2 notes from the other law firm or whatever.

10:20:15 3 Q. Anything else you took a look at?

10:20:17 4 A. I can't remember anything else at this  
10:20:18 5 point.

10:20:18 6 Q. Okay. Other than those documents, did  
10:20:23 7 anyone read you any portions of -- of other  
10:20:26 8 documents?

10:20:26 9 A. Not that I can remember.

10:20:30 10 Q. Okay. Have you ever been a party to a  
10:20:34 11 lawsuit before?

10:20:35 12 A. No.

10:20:35 13 Q. Have you ever testified at trial  
10:20:38 14 before?

10:20:39 15 A. No.

10:20:39 16 Q. Have you ever testified at an  
10:20:43 17 administrative hearing before?

10:20:45 18 A. No. Not that I can remember.

10:20:47 19 Q. Okay. Are you on any medications that  
10:20:50 20 might affect your ability to recall today?

10:20:53 21 A. No.

10:20:56 22 Q. When and where were you born, sir?

10:20:58 23 A. Buffalo, New York. October 23rd, 1950.

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10:21:03 1 Q. Have you lived in the Western New York  
10:21:06 2 area your entire life?

10:21:08 3 A. Yes. Yes.

10:21:09 4 Q. Have you ever been known by another  
10:21:13 5 name?

10:21:13 6 A. No.

10:21:14 7 Q. And your name is -- is William  
10:21:16 8 J. Wagner; is that correct?

10:21:16 9 A. Yes.

10:21:17 10 Q. Does your name have a suffix?

10:21:20 11 A. No.

10:21:20 12 Q. So -- so your name is not William  
10:21:23 13 J. Wagner, Jr., for instance?

10:21:24 14 A. My name is not William J. Wagner, Jr.

10:21:26 15 Q. Okay. And -- and you've never gone by  
10:21:28 16 that name before?

10:21:29 17 A. I have never gone by that name.

10:21:31 18 Q. Okay. Are you currently married?

10:21:32 19 A. No. I'm divorced.

10:21:34 20 Q. And during what time period were you  
10:21:41 21 married?

10:21:41 22 A. 1970 to 2009.

10:21:47 23 Q. And were you married on one occasion

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10:21:53 1 only, then?

10:21:53 2 A. Yes. Only one.

10:21:56 3 Q. What was your wife's name?

10:21:59 4 A. Julia.

10:22:00 5 Q. And did she -- was it Wagner? Julia

10:22:07 6 Wagner at the time?

10:22:07 7 A. Yeah.

10:22:08 8 Q. Okay.

10:22:08 9 A. She took my name.

10:22:10 10 Q. Do you have any children?

10:22:14 11 A. Yes.

10:22:14 12 Q. How many children do you have?

10:22:15 13 A. Two.

10:22:16 14 Q. What are their names?

10:22:20 15 A. William and Andrew.

10:22:23 16 Q. And are both those children with your  
10:22:31 17 wife Julia?

10:22:32 18 A. No. They're grown adults.

10:22:33 19 Q. But -- but you had them with your wife  
10:22:36 20 Julia, not someone else?

10:22:36 21 A. Oh, I'm sorry. Yes.

10:22:37 22 Q. That was not -- it wasn't a clear  
10:22:39 23 question.

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10:22:39 1 A. Yes.

10:22:40 2 Q. I apologize for that.

10:22:41 3 How old is William?

10:22:44 4 A. William is 38.

10:22:47 5 Q. And how old is Andrew?

10:22:49 6 A. 36.

10:22:50 7 Q. Does William have a middle initial?

10:22:53 8 A. Yes.

10:22:54 9 Q. And what's the middle initial?

10:22:55 10 A. G for Gregory.

10:22:57 11 Q. William G. Wagner?

10:23:00 12 A. Yes.

10:23:00 13 Q. Okay. And does Andrew have a middle

10:23:05 14 initial?

10:23:05 15 A. Yes. R.

10:23:08 16 Q. And neither one of them has gone by the

10:23:14 17 name William J. Wagner?

10:23:15 18 A. They have not.

10:23:16 19 Q. How long have you lived at your present

10:23:23 20 address?

10:23:23 21 A. Since September of 1984.

10:23:26 22 Q. And, again, you said that was

10:23:32 23 5419 Roberts Road?

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10:23:33 1 A. Yes.

10:23:33 2 Q. In Hamburg?

10:23:34 3 A. Mm-hmm.

10:23:34 4 Q. Have you lived there continuously since

10:23:41 5 September 1984?

10:23:41 6 A. Yes.

10:23:41 7 Q. Does anyone else currently live there

10:23:44 8 with you?

10:23:44 9 A. My son Andrew.

10:23:46 10 Q. Has he lived there continuously since

10:23:49 11 he was born?

10:23:49 12 A. No.

10:23:51 13 Q. I guess -- let me strike that.

10:23:53 14 Has he lived there continuously since 1984,

10:23:54 15 I should say?

10:23:55 16 A. No. He's in and out, let's say.

10:23:59 17 Q. Does anyone else currently live with

10:24:09 18 you at that address?

10:24:09 19 A. No.

10:24:10 20 Q. From 1984 to 2009, did your former wife

10:24:17 21 Julia live at that address as well?

10:24:18 22 A. Yes.

10:24:18 23 Q. Okay. Did -- during what period of

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10:24:25 1 time did your son Andrew live at that address?

10:24:27 2 A. Well, certainly for the first 20 some  
10:24:33 3 years of his life. Then he moved in with his  
10:24:36 4 girlfriend for several years. Then he moved back  
10:24:38 5 home. So I -- the dates I would be very, very, you  
10:24:43 6 know --

10:24:43 7 Q. Sure.

10:24:43 8 A. I don't know if I can come up with the  
10:24:47 9 exact dates, but that's kind of the timeline.

10:24:48 10 Q. Okay. What about your son William?

10:24:51 11 A. William hasn't lived there since  
10:24:56 12 about -- since he was like 21. Maybe 20, even. He  
10:25:01 13 joined the Air Force, and after that, he lived in  
10:25:06 14 the Virginia Beach area.

10:25:09 15 Q. Okay. So -- and is he still in that  
10:25:13 16 area?

10:25:13 17 A. No. He's -- he has a government job.  
10:25:15 18 He moves around the country, so he's out West at  
10:25:19 19 this point.

10:25:19 20 Q. Okay. Has anyone else lived at  
10:25:27 21 5419 Roberts Road since you moved into that address  
10:25:29 22 in 1984?

10:25:31 23 A. No.

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10:36:15 1 a debt to M.J. Peterson; is that correct?

10:36:18 2 A. That's correct.

10:36:18 3 Q. But you're not that William J. Wagner?

10:36:21 4 A. I'm not that William J. Wagner.

10:36:23 5 Q. So just for ease of reference, I'll

10:36:25 6 refer to that debt that's described in paragraphs 9

10:36:29 7 and 10 as the debt or the debt at issue. Does that

10:36:31 8 make sense?

10:36:32 9 A. Yes.

10:36:32 10 Q. And I'll refer to that individual, the

10:36:35 11 other William J. Wagner, as William J. Wagner, Jr.,

10:36:39 12 or the debtor. Okay?

10:36:41 13 A. Yes.

10:36:41 14 Q. Okay. Now, have you ever conducted

10:36:45 15 business with M.J. Peterson before?

10:36:47 16 A. No.

10:36:48 17 Q. So I assume you also have not incurred

10:36:52 18 a debt to M.J. Peterson before?

10:36:53 19 A. I have not.

10:36:56 20 Q. Are you related to anyone else named

10:37:00 21 William J. Wagner?

10:37:01 22 A. No.

10:37:01 23 Q. So even as cousins, removed, as far as

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10:37:05 1 you know, you're not related to this other  
10:37:07 2 individual, William J. Wagner, Jr.?

10:37:08 3 A. I'm not related to the other  
10:37:11 4 individual.

10:37:11 5 Q. Okay. Have you ever communicated with  
10:37:12 6 this other individual before, either in writing or  
10:37:15 7 orally?

10:37:15 8 A. No.

10:37:16 9 Q. Do you know whether he's ever lived at  
10:37:21 10 5419 Roberts Road?

10:37:23 11 A. I can assure you, he has not.

10:37:26 12 Q. Okay. Now, in February 2015, did  
10:37:38 13 Chiari & Ilecki send a letter to 5419 Roberts Road?

10:37:41 14 A. Yes, they did.

10:37:58 15 MR. WOODARD: Okay. Let's mark this as B.

16 The following was marked for Identification:

17 EXH. B Letter dated February 9, 2015, from

18 Melissa Overbeck to William

19 J. Wagner, Jr., with notice

20 to judgment debtor or obligor

21 BY MR. WOODARD:

10:39:02 22 Q. Mr. Wagner, I'm handing you what's been  
10:39:04 23 marked as Exhibit B.

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10:39:05 1 A. Mm-hmm.

10:39:05 2 Q. If you would take a look at that,  
10:39:08 3 please.

10:39:16 4 Do you recognize what Exhibit B is?

10:39:19 5 A. That's the letter I received.

10:39:20 6 Q. Okay. Before this letter, had you ever  
10:39:26 7 had any communication with Chiari & Ilecki?

10:39:29 8 A. Not to my knowledge.

10:39:31 9 Q. Okay. Had -- so Chiari & Ilecki had --  
10:39:35 10 had never sent correspondence to your address  
10:39:38 11 before, to the best of your knowledge?

10:39:38 12 A. To the best of my knowledge, no.

10:39:40 13 Q. Now, taking a look at Exhibit B, it's  
10:39:43 14 addressed to the debtor William J. Wagner, Jr.,  
10:39:47 15 correct?

10:39:47 16 A. Yes.

10:39:47 17 Q. And, again, that's not you.

10:39:51 18 A. That's not me.

10:39:52 19 Q. And it says it's regarding claim of  
10:39:55 20 M.J. Peterson, LLC. Correct?

10:39:58 21 A. Correct.

10:39:58 22 Q. Taking a look at the first paragraph,  
10:40:02 23 I'll -- I'll read it out loud, and please, again,

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10:40:04 1 read it along to yourself with me.

10:40:06 2 Please find the enclosed notice pursuant to  
10:40:11 3 CPLR 5222. This communication is from a debt  
10:40:14 4 collector. The debt collector is attempting to  
10:40:17 5 collect a debt, and any information obtained will  
10:40:19 6 be used for that purpose.

10:40:23 7 And then it says in the following paragraph,  
10:40:25 8 the current judgment balance as of February 9,  
10:40:28 9 2005 -- or excuse me -- 2015, is 2,570.17.

10:40:34 10 Did I read that correctly?

10:40:35 11 A. Yes.

10:40:38 12 Q. Now, had -- had letters addressed --  
10:40:48 13 letters like this one addressed to the debtor,  
10:40:51 14 William J. Wagner, Jr., ever been mailed to your  
10:40:53 15 house before?

10:40:54 16 A. No.

10:40:54 17 Q. So -- and I'm not -- I'm not saying  
10:40:57 18 just from Chiari & Ilecki. Had you ever received  
10:41:00 19 any correspondence addressed to William J. Wagner,  
10:41:03 20 Jr., before?

10:41:04 21 A. Nothing mailed to my house, no.

10:41:06 22 Q. Okay. Aside from debt collectors, had  
10:41:14 23 you received any letters addressed to William

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10:41:17 1 J. Wagner, Jr., at your house before?

10:41:22 2 A. No.

10:41:22 3 Q. Had -- had any calls ever been made to  
10:41:29 4 your house in which someone was asking for William  
10:41:34 5 J. Wagner, Jr., before?

10:41:41 6 A. You mean besides Chiari & Ilecki or --

10:41:44 7 Q. Before you received this letter.

10:41:45 8 A. No.

10:41:45 9 Q. Okay. Now, when you saw this -- this  
10:42:00 10 letter which we marked as Exhibit B, did you open  
10:42:02 11 the letter yourself when the -- the envelope  
10:42:05 12 arrived at your house?

10:42:06 13 A. Yes.

10:42:06 14 Q. And when you read it, did you recognize  
10:42:10 15 that Chiari & Ilecki was attempting to contact  
10:42:14 16 someone other than you? William J. Wagner, Jr.?

10:42:17 17 A. Yes.

10:42:17 18 Q. So you realized that they were not  
10:42:22 19 trying to collect a debt from you, as opposed to  
10:42:25 20 William J. Wagner, Jr.?

10:42:25 21 A. At that time, yes.

10:42:26 22 Q. Okay. How -- how did you respond once  
10:42:29 23 you saw this letter?

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10:53:07 1 A. No, I did not.

10:53:08 2 Q. Was anyone else on the phone with you?

10:53:11 3 A. No.

10:53:11 4 Q. Was anyone physically in the same room

10:53:14 5 or -- or near you when you were making the call?

10:53:16 6 A. I don't believe so.

10:53:17 7 Q. Okay. So what happened next in

10:53:32 8 connection with any communications with Chiari &

10:53:34 9 Ilecki or the -- about the debtor?

10:53:40 10 A. Well, they kept contacting me in

10:53:42 11 various ways.

10:53:43 12 Q. Okay. Well, what -- what was the --

10:53:45 13 the next contact?

10:53:46 14 A. I believe they tried to send a letter

10:53:48 15 to my house.

10:53:51 16 Q. Do you recall when that was?

10:53:56 17 A. It was a few days after the phone call

10:54:00 18 with Karen, probably the 15th.

10:54:06 19 Q. And you said that -- that that was a

10:54:16 20 letter that they -- that someone attempted to --

10:54:18 21 A. Attempted to.

10:54:19 22 Q. -- to deliver at your address?

10:54:21 23 A. That's right.

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10:54:21 1 Q. Okay. And was it, in fact, delivered?

10:54:24 2 A. No.

10:54:24 3 Q. And -- and why is that?

10:54:25 4 A. I wasn't home.

10:54:27 5 Q. Okay. Did you receive some sort of

10:54:31 6 notification, then?

10:54:32 7 A. Yes.

10:54:32 8 Q. Okay. And who was the notification

10:54:37 9 from?

10:54:38 10 A. United States Postal Service.

10:54:40 11 Q. Okay. And do you have a copy of that

10:54:44 12 notification with you today?

10:54:45 13 A. I do not.

10:54:46 14 Q. Have you given it to your attorney?

10:54:49 15 A. Yes.

10:54:50 16 MR. WOODARD: Okay. Can we go off a second?

10:54:53 17 (Discussion off the record.)

10:57:28 18 BY MR. WOODARD:

10:57:37 19 Q. We were just talking about a

10:57:39 20 notification that you received from the -- the post

10:57:41 21 office?

10:57:41 22 A. Mm-hmm.

10:57:41 23 Q. Is that correct?

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10:57:42 1 A. Yes.

10:57:42 2 Q. And you said that was -- you think that  
10:57:44 3 was a few days after your February 12th phone call?

10:57:47 4 A. Yes.

10:57:47 5 Q. Do you recall what the -- that notice  
10:57:51 6 said?

10:57:53 7 A. It was just a piece of paper with tried  
10:57:57 8 to deliver a letter, and you weren't home.

10:57:59 9 Q. Okay. Okay. And -- and did the notice  
10:58:03 10 say whom the correspondence was from?

10:58:06 11 A. It may have.

10:58:07 12 Q. Okay. Did it have to whom the  
10:58:14 13 correspondence was directed?

10:58:15 14 A. Yes.

10:58:16 15 Q. Did it say William J. Wagner, Jr.?

10:58:17 16 A. Yes, it did.

10:58:18 17 Q. And so, again, you knew that that  
10:58:21 18 wasn't you; that it was the debtor.

10:58:23 19 A. That's right.

10:58:26 20 Q. Okay. And you said you -- you don't  
10:58:30 21 recall whether that notice itself said it was from  
10:58:33 22 Chiari & Ilecki?

10:58:33 23 A. I believe it did not say that.

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11:09:51 1 Wagner, William J., Jr., then a number.

11:09:56 2 M.J. Peterson, LLC.

11:09:57 3 A. Mm-hmm.

11:09:57 4 Q. And then 3/19/2015 telephone call. Is  
11:10:02 5 that correct?

11:10:02 6 A. Yes.

11:10:02 7 Q. Okay. And right next to it, I'll --

11:10:05 8 I'll read the -- the entry that's next to it.

11:10:08 9 William Wagner CO -- I'm guessing that's

11:10:12 10 calls office. Says he is not debtor. Says his

11:10:19 11 DOB, date of birth, is in October 1950. Very upset

11:10:24 12 that he keeps getting letters from our office.

11:10:29 13 ADV -- I'm guessing that advised him can send a

11:10:33 14 copy of DL, driver's license, and SS number if he'd

11:10:38 15 like. He says for us to just let WI -- I'm

11:10:43 16 guessing that's William Ilecki know that he's not

11:10:47 17 debtor. Advised we did email attorney.

11:10:49 18 Did I read that correctly?

11:10:51 19 A. Yes, you did.

11:10:51 20 Q. Is that consistent with your

11:10:54 21 recollection of the March 19th telephone call that

11:10:58 22 you had with Chiari & Ilecki?

11:10:59 23 A. Yes.

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11:11:00 1 Q. Is there anything else that you recall  
11:11:04 2 from that conversation?

11:11:11 3 A. I just had the idea that they said they  
11:11:13 4 were going to take care of this.

11:11:17 5 Q. Any -- and why did you have that idea?

11:11:22 6 A. Because Kristian said something to that  
11:11:25 7 effect.

11:11:25 8 Q. Do you remember anything else that was  
11:11:32 9 discussed during that phone call?

11:11:33 10 A. No, I don't.

11:11:34 11 Q. So it says here that you -- you told  
11:11:45 12 them that you're not the debtor --

11:11:47 13 A. Correct.

11:11:47 14 Q. -- on -- on this phone call.

11:11:48 15 And so -- so, again, you realized that  
11:11:51 16 Chiari & Ilecki was looking for someone other than  
11:11:54 17 you. A William J. Wagner other than you.

11:11:56 18 A. Yes.

11:11:56 19 Q. And they weren't trying to collect  
11:11:59 20 from -- from you.

11:12:05 21 A. At this point, I started feeling  
11:12:10 22 harassed, and I believed they were trying to  
11:12:12 23 collect from me.

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11:12:17 1 Q. Well, those are two different things.

11:12:21 2 Did you feel harassed, or did you feel that they  
11:12:22 3 were trying to collect from you?

11:12:24 4 A. Both.

11:12:24 5 Q. Okay.

11:12:27 6 A. This matter should have been taken care  
11:12:30 7 of the first phone call.

11:12:32 8 Q. Okay. So this was the point at which  
11:12:35 9 you felt that they were trying to collect from you?

11:12:37 10 A. Yes.

11:12:37 11 Q. Now, everything that -- that was sent  
11:12:44 12 to your address, again, it was sent to William J.  
11:12:46 13 Wagner, Jr., correct?

11:12:47 14 A. Correct.

11:12:47 15 Q. And at least the first letter says it's  
11:12:49 16 about something having to do with M.J. Peterson,  
11:12:51 17 correct?

11:12:52 18 A. Correct.

11:12:52 19 Q. And you knew you didn't owe that debt,  
11:12:54 20 correct?

11:12:54 21 A. Correct.

11:12:55 22 Q. And did -- did anyone at Chiari &  
11:13:09 23 Ilecki say anything to suggest that they were

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11:13:11 1 looking for anyone other than the real debtor,  
11:13:14 2 William J. Wagner, Jr., as of this time?

11:13:23 3 A. I don't understand the question,  
11:13:32 4 actually.

11:13:32 5 Q. Did anyone at Chiari & Ilecki, as of  
11:13:37 6 March 19, 2015, do anything or say anything to give  
11:13:41 7 you the impression that they were trying to collect  
11:13:43 8 a debt from anyone other than the real debtor,  
11:13:47 9 William J. Wagner, Jr.?

11:13:48 10 A. Well, I felt they were trying to  
11:13:50 11 collect it from me.

11:13:51 12 Q. What -- did they -- did they say  
11:13:55 13 anything along those lines? Did they say anything  
11:13:59 14 that suggested that to you?

11:14:00 15 A. Not -- not that I can recall.

11:14:02 16 Q. What gave you that impression?

11:14:08 17 A. What gave me the impression was the  
11:14:15 18 whole thing. I mean, I get a letter from them  
11:14:18 19 saying I owe this. Does that not say that this was  
11:14:21 20 addressed to my house? I call; I tried to resolve  
11:14:24 21 it. And she says okay. We're going to send an  
11:14:28 22 email to the attorney. We'll take care of it.  
11:14:30 23 Then I get letters to my house.

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11:14:32 1 Q. But would you agree that everything  
11:14:34 2 that's been sent to you, at least up until this  
11:14:37 3 point, is addressed -- let me strike that.

11:14:39 4 Would you agree that all the letters that  
11:14:40 5 we've looked at, at least up to this point, are  
11:14:42 6 addressed to William J. Wagner, Jr.?

11:14:44 7 A. Yes.

11:14:45 8 Q. And you knew that's not you.

11:14:47 9 A. That's not me.

11:14:47 10 Q. So you knew they were trying to collect  
11:14:50 11 from someone else, a William J. -- William  
11:14:51 12 J. Wagner, Jr.

11:14:51 13 A. Well, if they were trying to collect  
11:14:54 14 from someone else, they were harassing me.

11:14:56 15 Q. Okay. But --

11:14:57 16 A. He didn't live there. I told them at  
11:15:00 17 least twice that he didn't live there. That it  
11:15:01 18 wasn't me. There was no William J. Wagner, Jr., at  
11:15:05 19 the house.

11:15:06 20 Q. And -- and I guess that's sort of --  
11:15:09 21 that's the bottom line. You felt harassed by it.

11:15:13 22 A. Yes.

11:15:13 23 Q. You understood -- you understood that

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11:15:16 1 they were trying to collect from someone else, but  
11:15:17 2 you felt harassed by it; is that right?

11:15:20 3 A. Well, I felt they were trying to  
11:15:22 4 collect from me.

11:15:22 5 Q. But you knew the -- the letter was not  
11:15:24 6 addressed to you, correct?

11:15:25 7 A. That's correct. And why it came to my  
11:15:29 8 house, I don't know.

11:15:29 9 Q. Okay.

11:15:31 10 A. So when letters came to my house saying  
11:15:34 11 that I owe a debt, I assume that they're trying to  
11:15:36 12 collect it from me.

11:15:37 13 Q. But the letter doesn't say you owed a  
11:15:42 14 debt, does it?

11:15:42 15 A. The letter doesn't, but the  
11:15:48 16 correspondences kept coming to my house.

11:15:50 17 Q. And -- and all of them were -- were not  
11:15:52 18 addressed to you.

11:15:53 19 A. And they were not addressed to me.

11:15:54 20 Q. Right? So that Chiari & Ilecki was not  
11:15:56 21 trying to collect from you; you realize that?

11:15:58 22 A. I don't realize that. I felt harassed  
11:16:03 23 at this point, and I believe that they were trying

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11:16:07 1 to collect from me.

11:16:08 2 Q. But you understood that they were --  
11:16:11 3 that the letter, at least that you had seen so far,  
11:16:13 4 and the notifications were addressed to William  
11:16:15 5 J. Wagner, Jr., and you understood that that was  
11:16:17 6 not you.

11:16:17 7 A. Yes. And they should have never come  
11:16:21 8 to my house, so you can understand why I would feel  
11:16:24 9 like they were harassing me at this point.

11:16:26 10 Q. Did you record your conversation with  
11:16:29 11 Kristian --

11:16:30 12 A. No.

11:16:30 13 Q. -- on March 19th?

11:16:32 14 A. No, I didn't.

11:16:33 15 Q. Was anyone else on the phone with you?

11:16:34 16 A. No.

11:16:34 17 Q. Was anyone physically near you when you  
11:16:38 18 were on the phone?

11:16:38 19 A. No.

11:16:39 20 Q. What happened next?

11:16:40 21 A. Well, next, I believe I was served with  
11:16:47 22 a subpoena.

11:16:48 23 Q. Okay. And when -- when was that?

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11:16:50 1 A. Oh, let's see. I don't know if that  
11:16:59 2 was the 5/11 date or if it was later than that. I  
11:17:06 3 don't recall the actual date.

11:17:09 4 Q. If you'd take a look at Exhibit C,  
11:17:34 5 page 3, the first entry has -- has a -- is noted a  
11:17:43 6 June 17, 2015 telephone call. Correct?

11:17:48 7 A. Are you talking about this one here?

11:17:50 8 Q. Yes, sir.

11:17:51 9 A. That's -- does that go with that date  
11:17:53 10 there?

11:17:53 11 Q. I believe so. Yes.

11:17:55 12 A. All right. Yes.

11:17:55 13 Q. Is that -- so when in relation to that  
11:17:58 14 telephone call do you think a subpoena was served  
11:18:02 15 at your address?

11:18:03 16 A. Oh, I probably would have called the  
11:18:05 17 very day that it was served.

11:18:12 18 MR. WOODARD: Okay. Let's mark as -- where  
11:18:18 19 are we? D? I apologize. This one is not stapled.

11:18:18 20 The following was marked for Identification:

11:18:18 21 EXH. D Subpoena duces tecum with  
11:18:18 22 restraining order, three  
11:19:25 23 pages

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11:19:25 1 BY MR. WOODARD:

11:19:31 2 Q. All right. Mr. Wagner, I'm showing you  
11:19:32 3 what's been marked as Exhibit D. If you'd take a  
11:19:38 4 look at that, please.

11:19:53 5 Do you recognize what that is, sir?

11:19:55 6 A. Yeah. It's the subpoena they served me  
11:19:57 7 with.

11:19:58 8 Q. Okay. Now, that subpoena is -- is also  
11:20:04 9 addressed to the debtor, William J. Wagner, Jr.

11:20:07 10 A. Yes.

11:20:08 11 Q. Correct?

11:20:08 12 And at the top, it has a caption that says  
11:20:17 13 M.J. Peterson, LLC, versus William J. Wagner, Jr.

11:20:19 14 A. Right.

11:20:19 15 Q. Right?

11:20:20 16 And then a little below it, there's a  
11:20:27 17 paragraph that starts whereas, and in the middle of  
11:20:30 18 that paragraph it says that a judgment was entered  
11:20:33 19 on May 10th, 2006, in favor of said judgment  
11:20:37 20 creditor and against judgment debtor William  
11:20:40 21 J. Wagner, Jr. Is that correct?

11:20:42 22 A. That's correct.

11:20:42 23 Q. And so -- and so you understood that

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11:20:46 1 that was not you, the person who was being  
11:20:49 2 referenced in there, correct?

11:20:52 3 A. Well, I knew it wasn't me.

11:20:53 4 Q. You -- you never were involved with a  
11:20:56 5 lawsuit with M.J. Peterson?

11:20:57 6 A. I was not.

11:20:58 7 Q. Okay.

11:20:59 8 A. Never.

11:21:00 9 Q. Okay. So you knew a judgment had not  
11:21:02 10 been entered against you.

11:21:03 11 A. That's true.

11:21:03 12 Q. Now, how -- how was this subpoena  
11:21:09 13 served?

11:21:09 14 A. The server drove up into my yard, and I  
11:21:15 15 was in my yard at the time, and he handed it to me.

11:21:17 16 Q. Okay. Can you describe him?

11:21:19 17 A. Can I describe him?

11:21:20 18 Q. Or her.

11:21:21 19 A. White male. Probably my size. Dark  
11:21:26 20 hair.

11:21:26 21 Q. Well, do you know whether he was an  
11:21:29 22 employee of Chiari & Ilecki or whether he was an  
11:21:31 23 independent process server?

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11:21:34 1 A. I don't know that.

11:21:35 2 Q. Okay. Did he -- did he hand the  
11:21:39 3 subpoena directly to you?

11:21:40 4 A. Yes, he did.

11:21:40 5 Q. Did he hand you anything other than the  
11:21:42 6 subpoena?

11:21:42 7 A. No.

11:21:43 8 Q. Did you speak with him at all?

11:21:49 9 A. Yes, we did.

11:21:50 10 Q. What -- who spoke first?

11:21:52 11 A. Well, he did.

11:21:53 12 Q. What did he say?

11:21:54 13 A. Have you ever been served before? In a  
11:21:57 14 loud voice that my neighbors could hear --

11:21:59 15 Q. Okay.

11:21:59 16 A. -- if -- if anybody had been out, and I  
11:22:02 17 don't know if they did.

11:22:03 18 Q. Okay. Do you recall seeing anyone  
11:22:05 19 outside?

11:22:06 20 A. No, I don't.

11:22:07 21 Q. Do you recall hearing anyone outside?

11:22:10 22 A. No.

11:22:10 23 Q. Okay. So as far as you know, no one

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11:24:04 1 do you recall?

11:24:04 2 A. I don't believe I did.

11:24:05 3 Q. Okay. So then at some point you opened  
11:24:07 4 it on your own?

11:24:08 5 A. Yes.

11:24:08 6 Q. Okay. And how did you respond?

11:24:23 7 A. Well, I called the office again.

11:24:25 8 Q. So if you look back on the events log,  
11:24:35 9 again, at the top of page 3 there's an entry that  
11:24:38 10 says Karen, William -- or Wagner, William J., Jr.,  
11:24:44 11 M.J. Peterson LLC, 6/17/2015 telephone call?

11:24:49 12 A. Yes.

11:24:49 13 Q. Is that -- is that the telephone call  
11:24:51 14 you're referring to?

11:24:52 15 A. Yes.

11:24:52 16 Q. Okay. So I'll read the description  
11:24:54 17 that's next to it, if you could read it along to  
11:24:56 18 yourself.

11:24:58 19 A William Wagner calls office. Served with  
11:25:01 20 papers. Said not him, and no junior lives there.  
11:25:05 21 He doesn't even have a junior in family. Told  
11:25:09 22 William per conversation with KB. He was to send  
11:25:14 23 in driver's lic, L-I-C, license, and never

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11:25:20 1 received. D thought sent out. Claims we are  
11:25:25 2 harassing him, and he's contacted his attorney.

11:25:30 3 Did I read that correctly?

11:25:32 4 A. Yes.

11:25:32 5 Q. So does -- does that accurately  
11:25:41 6 characterize your conversation on June 17th?

11:25:47 7 A. I believe it does.

11:25:48 8 Q. Okay. Do you -- do you recall anything  
11:25:49 9 else that was said during that conversation?

11:25:51 10 A. I never agreed to send in my driver's  
11:25:56 11 license.

11:25:56 12 Q. You never did?

11:25:57 13 A. No.

11:25:57 14 Q. Okay. And --

11:25:59 15 A. We talked about it. I never agreed to  
11:26:00 16 do that.

11:26:01 17 Q. Okay. And at -- at no point did you  
11:26:04 18 send in your driver's license to Chiari & Ilecki?

11:26:06 19 A. At no point did I.

11:26:07 20 Q. At no point did you send in your Social  
11:26:10 21 Security card?

11:26:10 22 A. I did not.

11:26:10 23 Q. And -- and at no point did you give

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11:26:13 1 Chiari & Ilecki your -- your complete Social  
11:26:15 2 Security number?

11:26:15 3 A. I did not.

11:26:16 4 Q. Okay. Did -- did you ever send them or  
11:26:19 5 tell them any verifiable proof of your identity at  
11:26:25 6 any point in time?

11:26:25 7 A. Well, I tried to give them part of my  
11:26:28 8 Social Security number and my date of birth.

11:26:33 9 Q. Did you ever give them any other  
11:26:35 10 information?

11:26:35 11 A. I believe I mentioned that I had lived  
11:26:37 12 in my house since 1984.

11:26:40 13 Q. Any other information?

11:26:41 14 A. At this time, I can't remember that.

11:26:43 15 Q. Okay. And I'm -- I'm referring to any  
11:26:46 16 conversations you've ever had with Chiari & Ilecki.  
11:26:48 17 You don't recall any other information that you  
11:26:49 18 gave them at this time?

11:26:52 19 A. No. That's -- that's pretty much it.

11:26:54 20 Q. Okay. Turning back to the June 17th  
11:26:59 21 conversation specifically, so you indicated to  
11:27:08 22 Chiari & Ilecki that William J. Wagner, Jr., here,  
11:27:12 23 that was not you. Correct?

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11:27:14 1 A. Correct.

11:27:14 2 Q. So you -- you understood that this  
11:27:15 3 person was not you, but you felt -- you felt  
11:27:20 4 harassed by them.

11:27:20 5 A. Yes.

11:27:21 6 Q. Right?

11:27:21 7 A. Exactly.

11:27:22 8 Q. Okay. So can you understand --  
11:27:26 9 Strike that.

11:27:31 10 I guess, to you, is that what this case is  
11:27:36 11 about? It's you feel harassed by -- by what  
11:27:39 12 occurred?

11:27:40 13 A. Most assuredly.

11:27:42 14 Q. Okay. Now, did -- did you record the  
11:27:58 15 June 17th conversation?

11:27:59 16 A. No, I did not.

11:28:00 17 Q. Did -- was anyone else on the phone  
11:28:03 18 with you?

11:28:03 19 A. No.

11:28:04 20 Q. And was anyone in the room or  
11:28:05 21 physically near you when the conversation occurred?  
11:28:08 22 No?

11:28:08 23 A. No.

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11:32:10 1 Q. Okay. And the time under the first  
11:32:14 2 note, is that about the time that you spoke with  
11:32:17 3 Chiari & Ilecki on February 12th?

11:32:19 4 A. Yes.

11:32:20 5 Q. Okay. Did you make a note from the --  
11:32:25 6 the June 2015 call?

11:32:27 7 A. No, I didn't.

11:32:28 8 Q. Okay. And was there a reason for that?

11:32:29 9 A. No.

11:32:30 10 Q. Now, Mr. Wagner, have you suffered any  
11:32:51 11 damages or injuries as a result of Chiari &  
11:32:54 12 Ilecki's actions at issue here?

11:32:58 13 A. You mean like psychological or  
11:33:03 14 physical?

11:33:03 15 Q. Any -- any kind -- how have you been  
11:33:06 16 harmed at all, if you feel like you've been harmed  
11:33:09 17 in any way?

11:33:09 18 A. Well, I'm sure that I'm suffering from  
11:33:14 19 hypertension. Phone calls, I -- I mean, they were  
11:33:17 20 not friendly phone calls. I -- you know. I think  
11:33:25 21 about this at different times of day and night.  
11:33:28 22 You know, someone trying to badger me into  
11:33:31 23 collecting a debt that I don't owe. So I -- a

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11:33:35 1 little sleeplessness, nervousness, upset stomach  
11:33:39 2 that -- you know, there's all sorts of things that  
11:33:41 3 happen. But hypertension is one thing that  
11:33:49 4 certainly I experience.

11:33:52 5 Q. And any other conditions like that that  
11:33:56 6 you've experienced?

11:33:57 7 A. There may be. I -- I -- those are the  
11:34:00 8 ones that come to mind right now.

11:34:02 9 Q. Okay. And you never ultimately had to  
11:34:08 10 do anything in response to the -- the subpoena that  
11:34:13 11 you received. Correct? I'll -- let me rephrase  
11:34:19 12 that.

11:34:19 13 You never were -- were deposed or had to  
11:34:24 14 turn over any documents --

11:34:26 15 A. No.

11:34:26 16 Q. -- in response to the subpoena,  
11:34:28 17 correct?

11:34:28 18 A. Correct.

11:34:29 19 Q. Have you incurred any expenses as a  
11:34:32 20 result of Chiari & Ilecki's alleged actions?

11:34:37 21 A. I don't believe so. There may be legal  
11:34:42 22 fees coming up. I don't know.

11:34:43 23 Q. Now, you mentioned that you experienced

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11:44:58 1 Q. Okay. In addition to what you've told  
11:45:08 2 us today and what is written in response to  
11:45:13 3 interrogatory number 4, have you experienced any  
11:45:15 4 other emotional injuries or psychological injuries  
11:45:23 5 as a result of the events at issue?

11:45:30 6 A. Well, emotionally, I -- I've been  
11:45:35 7 affected by this.

11:45:37 8 Q. And have you --

11:45:38 9 A. I've been a -- I've been a person who  
11:45:40 10 has always paid any bills that I've owed. And to  
11:45:46 11 be basically accused of being a debtor and have to  
11:45:50 12 produce my financial records for people I don't  
11:45:55 13 even know, yes, that affects me. That affects me  
11:45:59 14 greatly.

11:45:59 15 Q. But wouldn't you agree, sir, that at  
11:46:03 16 least all the documents we've looked at today were  
11:46:05 17 all addressed to William J. Wagner, Jr., correct?

11:46:08 18 A. And directed at me as --

11:46:11 19 Q. But -- but --

11:46:11 20 A. -- someone who could possibly be that  
11:46:12 21 person. And no matter what I said, they kept  
11:46:16 22 coming and coming and coming, until, finally, I had  
11:46:19 23 to get a lawyer to get you off my back.

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